

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on November 17, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic procedures, myofascial release, and electrical stimulation were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service through in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 25th day of February 2004.

Regina Cleave
Medical Dispute Resolution Officer
Medical Review Division

RC/rc

February 20, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-04-0818-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

This patient was injured on the job when she was pinned against some shelves by a forklift. This resulted in cervical and lumbar injuries as well as pain in the right hip and right elbow. MRI of the lumbar spine was performed which revealed a disc bulge at L4/5 and in the cervical spine, which revealed herniations at C5/6 and C6/7. The patient underwent extensive physical medicine treatment in an attempt to rehab the injuries. She also underwent multiple ESI treatments. Nerve conduction studies were performed and found to be normal. The patient did not respond to any form of conservative care and was referred for surgical intervention. She had cervical surgery in May of 2003 and lumbar surgery in September of 2003. Both of the surgeries involved fusion of the involved segments. She was seen by ___ as a designated doctor on March 13, 2003 and was found to not be at MMI. Recommendation was made for further care on this case in the form of more aggressive active treatment.

DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic procedures, myofascial release and electric stimulation.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The care that was rendered was reasonable in this case because of the seriousness of the injury. Clearly, the patient was in need of active treatment and the treating doctor did deliver such treatment. Also, we must note that the care that was rendered was shortly after ESI treatment. It is generally recognized in a clinical setting that some limited form of passive modalities will help ease an acute pain suffered from such treatment. As this patient eventually underwent 2 surgeries on her case, it was clear that this was a difficult case from the beginning. I agree with the methods generally used by the treating doctor on this case and I suggest that the treatment was reasonable and necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,